IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4910 OF 2007

Shantanu Vasudeo Patwardhan..... ....Petitioner
V/s
Devidas Pralhad Yatnalkar & Anr..... ....Respondents.

Mr.S.N.Chandrachood, Adv. For the petitioner.

Mr.S.V.Sadawarte, Adv. For respondent No.1.

CORAM: A.P.DESHPANDE, J.
12/9/07

PC:

The present petitioner is original plaintiff who has filed a suit for specific performance of an agreement entered between the petitioner and respondent No.2. The present respondent No.1 filed an application under Order 1 Rule 10 seeking his impledment as party-defendant and the said application had been allowed by the trial Court which order is challenged by filing the present writ petition. It appears from the record that the plaintiff had entered into development agreement with a partnership firm by name Grace Construction of which present respondent No.1 claims to be a partner. The plaintiff had entered in to development agreement with Grace Construction sometime in the year 1989. The said development agreement had been canceled according to the petitioner on 12.4.04. Thereafter again on 17.4.04 there is a compromise deed entered into between the plaintiff and the respondent

No.1 where under the respondent No.1 and the petitioner is to share the property after same is developed by respondent No.2. It is in dispute as to whether the respondent No.1 has any right under the compromise deed dated 17.4.04. The petitioner has contended that said compromise deed date3d 17.4.404 has been canceled and there is no subsisting right with the respondent No.1 in regard to any property of the petitioner. The respondent No.1 has signed the agreement entered into between the petitioner and the respondent No.2 as consenting party. In this fact situation the trial Court has found that the presence of respondent No.1 before the Court is necessary for complete adjudication of issue in dispute and thus allowed the application moved by respondent No.1. Perused the order. I am in agreement with the view taken by the trial Court that for effective and final adjudication of the dispute presence of respondent No.1 before the Court is necessary. Hence writ petition is summarily dismissed. It is made clear that the trial Court shall decide the suit on merits uninfluenced by the observations made in this order.

12.9.07